

HEALTH & SAFETY ISSUES and other concerns

What would Direct Action Enforcement entail?

Above we have requested disclosure in writing of the operations envisaged by BDC and our intention to submit these plans for examination by Essex Fire & Rescue officers and the Health & Safety Executive.

1 We note that where an Enforcement Notice or Injunction is being acted upon the wording usually prescribes **removal** of persons and property.

However, in practice, Constant & Co., already engaged by BDC, have as shown in the DVD ignored the legal definition of "removal" and proceeded to break down and burn fencing, instead of collecting the removable panels and taking them off the site for storage. Similarly, huts have been broken down and burned, as at Woodside, Meadowlands and Twin Oaks.

Kathy Buckland has described in a statement taken on video at Colchester Police Station how during the destruction of homes on the Meadowlands Caravan Park by Constant for Chelmsford Borough Council her mobile-home was taken out on the road and burned.

P. E. states that despite a promise to preserve his chalet so that personal property could be collected next day, Constant bailiffs, working for Hertsmere council at an eviction of Twin Oaks caravan park, set fire to it and destroyed the entire contents, including bedding, furniture, clothes and family photographs.

Is it the intention of BDC to allow the bailiffs to destroy fencing and huts, and personal belongings, and to start large fires on the site for the purpose of burning these? Is it the intention of the BDC to allow bailiffs seriously to damage chalets, mobile-homes and caravans, and even burn or crush these, as at previous evictions?

In short, is the policy to remove where possible, or break and burn? At the Meadowlands eviction, no official of Chelmsford BC was present on the site.

Will the Council ensure that senior officials and staff, both from the BDC and ECC are present at Dale Farm a) to see that BDC agents Constant and Co. are complying with health and safety regulations, b) to carry out their duty of care towards those rendered homeless, and c) in the case of the ECC, their duty towards vulnerable children, the sick and disabled?

Will the Council undertake to inform Dale Farm residents and their representatives of the names of the officials who will be present and in charge, and how they can be contacted during the operation?

2 Presuming that Constant may be planning to transport caravans, mobile-homes and chalets to storage at a depot used by the firm at South Mimms, we have to question on past experience whether this company has sufficient expertise to carry this out in a proper manner.

A.E., M.Q. and others whose homes were seized at Twin Oaks, complain that chalets were not properly and professionally dismantled and serious damage done to them. They were not adequately covered and suffered further deterioration from the weather. In some cases chalets could not be lived in again due to their ruined condition.

Can we have an assurance from the Council that in this instance, bearing in mind that up to ninety chalets, mobile homes and large caravans will need to be stored for a period of time, that adequate facilities will be available? That chalets will be properly and professionally dismantled, transported and stored?

Further that owners will be informed in advance of the location of storage facilities, how to retrieve them and what fees will be payable?

There are concerns about the insurance of these homes while in care of Constant, which has a poor track record for looking after of such properties.

What will be the arrangements for those mobile-homes which are not owned by residents but instead are the subject of a private rental agreement? For example some are owned by Mr Jenkins and the rent paid through Housing Benefit.

3 We ask you to note that an eviction operation of the kind planned by BDC at Dale Farm, using Constant & Co., has many of the characteristics of a demolition job. Aerial photographs show scores of buildings, chalets and kitchen huts, as well as plumbed-in mobile homes. In addition, there are over forty cess-tanks underground, electrical wiring, gas-cylinders, acres of hardstanding and miles of fencing and walls.

With demolition on this scale using heavy machinery, JCBs, low-loaders and cranes, it would be a requirement of Health and Safety Regulations in advance of work to secure the entire perimeter of the site with an adequate fence.

It is a legal requirement of BDC to see that staff and agents keep within the bounds of the Health and Safety at Work Act 1974.

Can we have an assurance from the Council that should the eviction be permitted to go ahead it will ensure full compliance with this Act? And that before entry of heavy vehicles and commencement of demolition work, the area involved in the Enforcement Order will be secured by demolition-site fencing?

4 If the answer is "yes", our next concern would be that an assessment be made, as required by law, of the danger to people within the site at the time of the eviction operation. We have concerns about children, particularly small children, and about the infirm and elderly, as well as adults, and indeed Council staff and agents.

M.B., a mother involved in the Twin Oaks eviction by Hertsmere Council, says Constant bailiffs and Hertfordshire police manhandled her despite her being eight months pregnant, and she was thrown heavily to the ground. She complains that this nearly caused her to miscarriage. Kathy Buckland similar complained that at Meadowlands a bailiff pushed her backwards into the dirt, calling her a "Fat, Irish pig". She was six months pregnant.

In relation to heavy vehicles, we draw attention to a recent HSE seminar (6 November 2007 at Colwyn Bay) at which it was stated that vehicle accidents account for many fatalities during demolition work,

commonly due to contact between vehicles and persons on foot. HSE Inspector Debbie John said, "Site managers must identify risks posed. It could be a matter of life or death."

Neglect of this issue could expose the BDC to charges under Section 3 (1) of the HSW Act for failing to ensure that risks to non-employees have been adequately controlled (Crown v Excavation & Contracting UK, 2007).

In order to guarantee the safety of residents, will it be that the Council deem it necessary to carry out a complete and thorough evacuation of Dale Farm, assisted by the police? If so what are the legal implications for those residents who have licensed yards?

We would like to have your comments on that aspect of the planned operation.

5 In the event that we agree the first two measures would be necessary, our next concern must be the way the Council would deal with the hundreds of people moved off the site and thus rendered homeless.

To date, there appears to be no prospect that temporary housing accommodation will be offered to any of the families involved. Individual attempts to register as homeless have not so far succeeded, a number of applicants have been turned down as intentionally homeless. A Joint Homeless Application has also been rejected.

An application for Planning Permission by the DFHA to move to a site at Pitsea some of the families most in need, due to severe medical problems and special educational needs, has likewise been refused. An appeal against this was lodged by us on 28 November 2007, with documentation running to 90-pages. We expect a Public Inquiry.

Might it be necessary to have local halls available to those who would in effect be in a plight similar to that of refugees hit by a natural disaster?

At Chelmsford's Meadowlands eviction no council staff were present on the site. They were located a mile away in a parish hall and dealt with a small number of emergency homeless applications.

This past year, a mobile police station has been visiting Dale Farm and

has been parked on Oak Lane one day a week for use as a clinic and first aid post.

May we ask the Council to consider a similar arrangement in the event of an eviction? It could be shared by other welfare staff, as well as medical personnel.

We are seeking an assurance from the Council that adequate measures would be put in place for the immediate sheltering and feeding of all persons displaced by the eviction, with special regard to infant children, the infirm and elderly.

It may be necessary to involve other agencies, such as the British Red Cross, to help ensure that a supply of blankets and hot food is available, especially to meet the hardships of the first night.

6 Based on previous experience, we question whether Constant & Co. has the proper expertise to dismantle chalets and transport chalets and mobile-homes to a secure storage facility.

At Twin Oaks, Constant bailiffs while employed by Hertsmere council, broken down the chalet belonging to A.E. while she was still inside, unable to move because of her infirmities. Her chalet was so badly damaged, then exposed to bad weather at South Mimms, that it could not be lived in.

Few companies in the UK are fully qualified to dismantle chalets and Constant & Co. is not one of them.

What experts employed for the job of dismantling chalets?

It is the responsibility of BDC to see that their agents do the job properly, without causing unnecessary damage, so that homes can be retrieved in good and habitable condition.

7 We ask whether the Council has considered its potential liabilities and has adequate insurance coverage to meet every eventuality likely to arise in what is an extensive and dangerous operation; and whether the Council had fulfilled its obligation to consider fully the implications of direct action upon the personal circumstances of all those who would be affected.

In relation to this, we believe the Council ought to look again at the statement by the Primary Care Trust which has warned of likely psychological trauma and physical injury to those being coerced to abandon their homes by bailiffs and police.

8 Can the Council inform us of any arrangements it has made with Essex County Council in respect of the ECC's duties towards children, older adults, the disabled and those with mental health problems, in the event that through eviction they are left on the roadside?

Such a situation would require intervention by the ECC within its duty of care to keep them safe and healthy (see letter from the Chief Executive of the ECC to Bala Mahendran, Chief Executive of BDC, 29 June 2005).

We note that the ECC may need to provide for children and families, both before and after action, especially where BDC's Housing Department has decided that a family with children is not eligible or has been found intentionally homeless (a number of families are already in this situation). Likewise, the ECC has a duty of care towards vulnerable adults, including those who may be placed at risk by a forced eviction.

9 The likelihood of children and adults suffering psychological and physical injury, as warned by the Primary Care Trust, leads us to question the adequacy of the risk assessment so far undertaken by BDC in respect of their direct action plan.

The legal requirement for risk assessment, under Management of Health and Safety at Work Regulations 1999 and our intention to sue the council for injuries to persons and property, should cause the BDC to reflect again on its present course of action.

Past conduct of Constant & Co., as illustrated in our DVD and the statements of numerous witnesses, ought to be sufficient to persuade BDC members that letting loose these bailiffs will be, in the circumstances, a hazardous undertaking from their point of view.

The chances of success of such a large-scale eviction, never before attempted and involving the bulldozing of an entire village, are probably not high.

If "successful" to the limited extent that families are forced out of Dale Farm, it is their intention to remain in the district.

We must remind the Council of its obligation to assess the risks to all persons affected by the eviction and to identify the measures necessary to avoid accidents and injuries, bearing in mind the duties and prohibitions imposed upon the council under the relevant statutory provisions.

These include identification of all the hazards (movement of heavy machinery when children present, demolition of chalets where elderly and sick persons are involved; pet animals, falling walls and fences, fire hazards, electric cables, gas-cylinders, cess-tanks, water pipes etc); evaluation of these risks and then adoption of measures to minimize the risks, together with proper management of the actual operation.

10 The presence of asbestos, at 6 Camilla Drive and at other locations on Dale Farm require special handling. Regulation 10 (1) of the Control of Asbestos at Work Regulations 2002 states that asbestos roofs have to be removed under controlled conditions, and the HSE warns that asbestos sheets must not be smashed by machine or hand tools, spreading asbestos fibres that would endanger health.

Earlier this year Wye Valley Demolition Ltd was heavily fined for releasing asbestos during demolition. Unless we have a satisfactory answer on whether the council and its agents have assessed this risk and are taking measures, such as employing trained workers, we intend to take the matter up with the HSE.

11 To comply with legal requirements a record of the significant findings must be made, including a written report on the probability or likelihood of accidents occurring as a result of uncontrolled risks.

The following should also be recorded: the number of persons at risk, with notes on persons that may be specially vulnerable, such as children, the elderly, sick and disabled.

In addition the council has a duty under MHASAW Regulations implementing the EC Framework Directive to make known in writing the worst case likely outcome of the Dale Farm eviction operation.

This means recording any circumstances arising from the assessment of the direct action blue-print drawn up with Constant where serious and imminent danger could arise. Where large numbers of people are exposed to harm and there is a risk of multiple fatalities, as is the case here, there is a duty to quantify the probability of accidents occurring.

12 We note from the Regulations that the risk assessment must be periodically reviewed and updated. The original assessment dates to 2005.

When was the last update done for the eviction operation? Does it take into account the presence of new babies, children, elderly and sick persons who may have returned to Dale Farm, or have newly arrived within the community, since the last assessment was made?

Does it take into account new developments at the location, such as new fencing, stationing of new mobile-homes and cess-tank installations, with their accompanying, water, electricity and gas facilities, electric cables and telephone lines?

13 Neither the assessment work nor the safety measures adopted are at present in the public domain.

We hereby request that they be made public so that they can be examined by a) residents of Dale Farm, b) our solicitors to ensure there has been full compliance, and c) by other residents of Basildon so that they can judge what the council is getting them into.

14 In the light of our concerns, and the evidence of malpractice including disregard of safety regulations by bailiffs in the recent past, we have drawn up a team of Human Rights Monitors to watch over the eviction operation should it proceed. These Monitors will carry armbands and identifying name tabs. They will be equipped with cameras and recorders.

In addition, a number of staff and freelance journalists, including foreign television journalists, have requested to be embedded at Dale Farm ahead of and during the eviction.

At the Twin Oaks eviction, Clifford Codona, UK delegate to the European Roma and Traveller Forum, present as a Human Rights Monitor, and Sky television reporter Roddy Mansfield made formal complaint that they were deliberately debarred from the site by Hertfordshire police until 12 noon.

May we have a statement from Essex police as to their intention and policy towards Human Rights Monitors and members of the media? Do you intend to hamper or restrict these persons from their voluntary and professional duties? If so, have you considered their rights to

enter Oak Road and Oak Lane, and to proceed to Camilla Drive and others parts of the settlement at the invitation of the residents and owners for the purpose of their legitimate work?

15 We have further concerns arising out of the conduct of police officers during the Twin Oaks eviction, which involved a number of families who are now at Dale Farm. On that occasion, police entered the caravan park, some ahead of the bailiffs, at an early hour before light, and aroused residents from their beds, forcing parents to bring their children into the open. Some children were not properly clad and barefooted.

Hertfordshire police stepped beyond their role as keepers of the peace and actively participated in the eviction. They contributed in a major way to what was in our view inhuman and degrading treatment of men, women and especially children, in contravention of the Human Rights Act.

We want an assurance that any future eviction by Basildon takes into account the safety and legal rights, including human rights, of the legal residents along Oak Lane (as well as the unauthorised residents). In particular, we are concerned about the children and need to know what provision the Council is making to ensure that all the children of school age, on licensed and unlicensed properties, can go to school on the day of any eviction operation.

Will the Council, assisted by the police, be able to ensure that school children are able to prepare, breakfast and depart for school without hindrance?

Will the Council consider ensuring that their school starts without interference by the operation? Will the Council consider putting into the eviction plan, for this purpose, a time-table that foresees the movement of bailiffs and machinery to the vicinity of the children's homes only on or just after 9 am?

16 Previous evictions have been accompanied by the removal of topsoil, digging of trenches and construction of high earth mounds or berms around the site, and even the spreading of slurry, to prevent or deter re-entry by owners.

The Meadowlands property continues to be owned by the original residents but high berms and other barriers prevent them using the land for the legitimate purpose of grazing ponies.

At Twin Oaks, P. E. has been promised by Hertsmere council that they will erect a gate through the berm, in recognition of his right to graze ponies on his own land.

Our legal advice is that some of this activity may be illegal. Removal of topsoil is destructive of the green belt, as is trenching when it leads to flooding. At the same time the erection of earth banks blocks the right of way of owners onto their own property for legitimate purposes.

Can the council inform us whether it is part of their plan to remove Camilla Drive and Oak Lane (also known as Beauty Drive), as well as the smaller portions of tarmac road at Swallow View and Oak Place? Has the Council taken into consideration that parts of both Camilla Drive and Oak Lane serve the legal property at Dale Farm House?

Will topsoil be removed or replaced along the roads and in the areas of the yards? Will owners have access to their properties for legitimate purposes following the operation?

At previous evictions, Constant has left behind considerable debris, including scrap metal, sections of huts and fencing and cess-tanks. Owners may wish to salvage these and may need temporary vehicle access for this purpose. Will this be permitted by Council staff and police? If not, please inform us in writing of your legal authority for preventing owners carrying out such legitimate activity.

Further, a study of ODPM Circular 1/2006 causes us to point out that when combined with s225 of the 2004 Housing Act which gives all Councils a duty this year to assess the number of pitches (yards) needed and then in the next few years to choose enough locations for them.

Does Basildon ~~have~~ intend to replace the 52 yards (accommodating some 90 homes) which it plans to destroy? Where are the occupants of those pitches to live if they lose the Judicial Review taking place from 11 February?

Circular 1/2006 is very against making Travellers homeless and suggests temporary planning consent for a few years to cover the gap before the new pitches are ready.

If so, why are those at Dale Farm not granted similar consent, like the Appleby family granted it in the Basildon Green Belt on Dec 21 2000 on education needs?

We ask why Basildon cannot follow the advice in ODPM Circular 1/2006 to avoid making Travellers homeless by leaving the residents of Dale Farm where they are until the new sites which MUST be provided by

s225 of the 2004 Housing Act are ready for them, so preserving the children's Human Right to Education or do they not care for this right? We are asking Basildon to leave the most needy families at Dale Farm until the five yards can be developed at Pitsea - now subject to a planning appeal.

After taking advice from Ann Dean, of the National Romani Rights Association, we must again draw your attention to Circular 1/94 and 1/2006, and Statute and Case Law re Planning Consent for Gypsy Caravans in the Green Belt, in *Doncaster MBC v First Secretary of State* and *Angela Smith* (2007) the High Court upheld the decision of the planning inspector that,

"The absence of any alternative, available, affordable, acceptable and suitable land to which the site occupants could move has to be afforded considerable weight in favour of the development."

ODPM Circular 1/2006 has greatly improved the case for Travellers in getting permanent or temporary consent, for those with Gypsy status, as defined in paragraph 15 of Circular 1/2006.

1.1 Paragraphs 44-46 of the Circular state that if more land for Traveller sites will be available in the future, which they will be because of section 225 of the Housing Act 2004, then Planning Authorities should grant temporary planning consent for Gypsy caravans (i.e. for static caravans (mobile homes) or touring caravans.) This will fill the gap until the new sites are ready.

1.2 Paragraph 51 of the 1/2006 Circular says that the Green Belt may need to be redrawn to find enough land for Gypsy sites.

1.3 Paragraph 43 says that where there is a current unmet need Councils should not wait for the completion of the Regional GTTA to address the need.

1.4 Paragraph 63 says that lack of sufficient existing provision may give grounds for appealing the refusal of planning consent. The Circular also advocates the use of temporary permission in paragraphs 4-46 and in 43 it says that where there is a current unmet need Councils should not wait for the completion of the Regional GTTA to address the need.

Other substantial factors in granting temporary or permanent consent even in the Green Belt are the shortage of sites and the failure of the Council to follow paragraph 12 of Circular 1/94 *Gypsy Sites and*

Planning and the Homelessness Act 2002, which both said that Councils should provide enough land for Gypsy sites in their Local Plan, and the probability that the local Green Belt will have to be used to provide the extra caravan pitches required by s225 of the Housing Act 2004.

3.1 The Human Rights Act 1998 is also engaged, both Article 8 (Respect for Home and Family Life) and Article 2 of the First Protocol, the Right to Education.

3.2 Most children cannot attend school at all if the family have to live on the road. The Human Right to Education, unlike Article 8 (Respect for one's Home and Family Life), is an unconditional right NOT qualified by local British laws like those protecting the Green Belt.

3.3 In the *Basildon DC v Appelby* case, on Dec 21 2000, the High Court upheld the decision of the Secretary of State for the Environment, that the need for education of Gypsy children, even without the need for special education, could not be met by life on the road, and justified the grant of planning consent for caravans in the Green Belt (*Basildon DC v Secretary of State for the Environment and Appelby*, December 21 2000 unreported).

An inspector had previously rejected the appeals, saying that retaining the caravans would erode the gap between Basildon and nearby Thundersley. He attached little weight to the circumstances of the appellants, because he said that many other gypsy families also had children.

But John Prescott said that the need to avoid any disruption to the schooling of the appellants' children carried a 'significant weight' and should outweigh any harm to the green belt. He said that the educational needs of the appellants' children 'cannot be given less weight simply because they are similar to those of other Gypsies'. This was upheld by the High Court.

4 The Education Act also entitles Traveller children to education.

5 The government has said that planners should consider the impact on individuals of refusing planning consent and Lord Scarman said the same in a House of Lords case *Great Portland Estates plc v Westminster CC* [1985] AC661 at 669- 670; AC [1984] 3 All ER 744 HL, when he said that "personal circumstances ... personal hardship ... are not to be ignored. ... It would be inhuman pedantry to exclude

from control of our environment the human factor. ... It can, however, and sometimes should, be given direct effect as an exceptional or special circumstance.

6 In *Basildon DC v First Secretary of State v Temple* [2004] EWHC 2759 Admin. Sullivan J held that a number of non exceptional circumstances when added together could add up to something "very special" as planners must "consider all relevant factors in the round." So Sullivan J upheld the decision of a Planning Inspector to grant planning consent to a Gypsy family in the Green Belt because of;

- i The educational needs of the children,

- ii Because, if refused consent, they would have to choose between giving up their Gypsy way of life by living in council accommodation, so their children could go to school, or continuing to live in a caravan without any schooling.

(Living in council accommodation often means for six months or more in a Homeless Hostel with the police called several times a week (eg Watford). The Hostel would not have the parking spaces which Travellers need for their work.

Travellers forced to live in houses often face racial harassment from the neighbours, both verbal and by neighbours tipping revolting rubbish in their garden (eg Brent). Also houses do not have enough rooms for extended families.

- iii The shortage of sites in the area,

- iv The failure of the Council to assess the needs of Travellers and Gypsies in the area. (In the past they did not comply with the duty under the Gypsy Caravan Sites Act to provide enough sites, nor with paragraph 12 of Circular 1/94 *Gypsy Sites and Planning* nor with the Homelessness Act 2002 which both said they should provide land for Gypsy sites, in their Local Plan. (This failure to provide for the needs of Gypsies, is also a breach of the Race Relations Acts 1976 and 2000).

In the same 2004 case of *Basildon DC v Temple*, Basildon Council claimed that each reason had to be judged alone as being serious enough to be a very special circumstance but Sullivan J held otherwise and said, "There is no reason why a number of factors ordinary in themselves cannot combine to create something very special. The claimant's approach flies in the face of the approach normally adopted to the determination of planning issues: to consider all relevant factors in the round. ... In planning as in ordinary life, a number of ordinary

factors when combined together result in something very special". The four above factors in the Temple case also apply to Dale Farm. The Council's present Local Plan does not have any provision for land where Gypsy caravans will be allowed although the 2002 Homelessness Act required that by July 2003 Councils should estimate the need and produce a strategy for meeting the accommodation needs of Travellers as well as house dwellers. Also the shortage of sites is proved by the fact that the Council is assessed as needing more pitches to meet the need required by section 225 of the Housing Act 2004.

7 Other planning cases involving Basildon Council have stated that the Travellers concerned could not have afforded the cost of land outside the Green Belt so that the only way that they could get an education for their children was to camp on the Green Belt.

8 In the recent High Court Green Belt case of *Doncaster MBC v Angela Smith (Doncaster MBC v First Secretary of State and Angela Smith [2007] EWHC 1034 Admin.)* Bartlett J. upheld the decision of the local planning inspector who granted planning permission in the Green Belt because, "The absence of any alternative, available, affordable and suitable land to which the site occupants could move has to be considered considerable weight in favour of the development." Bartlett J. held that the inspector had acted correctly in accord with Circular 1/2006.

9 In the Kent Green Belt the Gavin brothers got temporary permission in Walden's Farm on the grounds that health or education, combined with a shortage of sites were sufficient "very special circumstances," so did those on a very visible site at Marden in Kent.

10.1 These reasons weighed heavily with the Planning Inspector Diane Lewis who granted the Appeals of three families in the Green Belt against Basildon DC in 2006, in Hovefields Drive in Wickford, APP/VI505/A/05/1183093, 1187177, 1187178.

She said in paragraph 66, "As set out in Circular 01/2006 research has consistently confirmed the link between the lack of good quality sites for gypsies and travellers and poor health and education. ... I have a concern that in the absence of alternative sites, the ability of children to have a stable education would be severely affected. Disruption to education would be especially unfortunate because for the most part these families have strived to ensure regular attendance."

10,2 Also in Paragraph 66 she says, "Regular medical treatment and care would become much more difficult." Travellers on the road without a postal address often cannot register with a GP to refer them to Consultants and have no address for Consultants' appointments and even if they can get an appointment, may be evicted with only 2 hours notice and so be unable to keep it.

10.3 In Paragraph 52 the same Inspector says, "The failure to carry out a structured and researched assessment [of how many pitches were needed] for over 15 years weighs heavily in favour of the Appellants." She says this requirement for a qualitative assessment of need in Local Plans was required in paragraph 12 of Circular 1/94, now replaced by Circular 1/2006.

11.1 In the Porter case, the Court of Appeal in South Buckinghamshire DC v Porter in 2001 and the House of Lords in 2003 both decided that the courts must no longer act like a rubber stamp when asked for a section 187B injunction under the 1990 Act, partly because of Article 6(1) of the Human Rights Act, requiring a fair hearing, but also because, as Lord Steyn said, "A civil society requires a fairer and more balanced approach" and, "Even if it had previously been possible to ignore great or marked hardship in the exercise of discretion under section 187B-a hypothesis which I do not accept-such an approach is no longer possible."

11.3 Also in the Court of Appeal in the Porter case, Simon Brown LJ said. "Proportionality requires ... that it does not impose an excessive burden on the individual whose private interests - here the gypsy's private life and home and the retention of his ethnic identity - are at stake."

11.4 In the House of Lords, Lord Bingham also repeated Simon Brown's decision that, "The Court should be slow to make an order which it would not at that time be willing if need be to enforce with imprisonment." Lord Bingham also quoted Vaclav Havel, that the way Gypsies are treated is "a litmus test of civil society." So the House of Lords held that the Human Rights Act and that hardship, health and education, availability of other sites, the possibility of planning consent in the future etc must all be considered. Mrs Porter had health problems.

12 To sum up, the health and education needs combined with limited financial resources which prevent them from buying other land, and the failure of the Council in the past to provide adequately or at all for

Travellers in its Local Plan and the need of the family for a stable affordable home with adequate parking for work vehicles and the requirements of s225 of the Housing Act 2004 combined with Circular 1/2006 all add up to more very special circumstances for the granting of temporary or permanent planning consent, bearing in mind that a static or mobile home or a caravan, unlike a brick house, can if necessary be given temporary consent limited to one named family so that it does no permanent harm to the Green Belt.